Senate Bill No. 151

CHAPTER 406

An act to amend Sections 11165.1 and 11166 of, to amend and repeal Sections 11162, 11168, and 11169 of, to amend, repeal, and add Sections 11159.2, 11161, 11164, 11165, 11167, 11167.5, and 11190 of, to add Sections 11029.5, 11161.5, 11161.7, 11162.1, and 11162.6 to, and to add, repeal, and add Section 11164.1 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 16, 2003. Filed with Secretary of State September 17, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 151, Burton. Controlled substances: Schedule II.

Existing law provides that no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense such a prescription unless it complies with specified requirements, one of which is that prescriptions for Schedule II controlled substances shall be prepared on triplicate prescription blanks issued by the Department of Justice. Existing law also provides for the electronic monitoring of the prescribing and dispensing of Schedule II controlled substances pursuant to the Controlled Substance Utilization Review and Evaluation System (CURES) program, as specified. The CURES program is scheduled to become inoperative on July 1, 2008, and repealed on January 1, 2009. Existing law provides that a violation of any of these provisions is generally a misdemeanor.

This bill would, on and after July 1, 2004, eliminate the triplicate prescription requirement for Schedule II controlled substances and would, on and after January 1, 2005, require prescribers of Schedule II controlled substances to meet the same prescription requirements imposed with respect to other prescribable controlled substances, as specified. The bill would, on and after January 1, 2005, require prescriptions for any controlled substance to be issued on controlled substance prescription forms obtained from a security printer approved by the Board of Pharmacy, as specified. Between July 1, 2004, and January 1, 2005, these prescriptions would be permitted using either the triplicate form or the security forms. The bill would make the CURES program applicable to Schedule III drugs if there is adequate funding and would also provide for the indefinite continuation of the CURES program by deleting its repeal date. The bill would make it a crime to counterfeit a controlled substance prescription; knowingly possess a

counterfeited controlled substance prescription; or obtain under false pretenses, or fraudulently produce, a controlled substance prescription, as specified. By creating new crimes, the bill would impose a state-mandated local program.

The bill would also revise provisions relating to electronically transmitted prescriptions and would add provisions authorizing pharmacies to dispense certain prescriptions from out-of-state prescribers, as specified. The bill would make conforming changes to related provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would incorporate additional changes to Section 11165 of the Health and Safety Code proposed by AB 1196, to be operative only if this bill and AB 1196 are both enacted and become effective on or before January 1, 2004, and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature in enacting this act to do the following:

(a) Increase patient access to appropriate pain medication and prevent the diversion of controlled substances for illicit use.

(b) Provide that the forms required by the act for controlled substance prescriptions may be used to prescribe any prescription drug or device.

SEC. 2. Section 11029.5 is added to the Health and Safety Code, to read:

11029.5. ''Security printer'' means a person approved to produce controlled substance prescription forms pursuant to Section 11161.5.

SEC. 3. Section 11159.2 of the Health and Safety Code is amended to read:

11159.2. (a) Notwithstanding any other provision of law, a prescription for a Schedule II controlled substance for use by a patient who has a terminal illness shall not be subject to Section 11164.

(b) (1) The prescription shall be signed and dated by the prescriber and shall contain the name of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, and directions for use. The signature, date, and information required by this paragraph shall be wholly written in ink or indelible pencil in the handwriting of the prescriber.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed, as provided in paragraph (3) of subdivision (b) of Section 11164, and shall contain the name, address, telephone number, category of professional licensure, and federal controlled substance registration number of the prescriber, as provided in paragraph (2) of subdivision (b) of Section 11164.

(3) The prescription shall also indicate that the prescriber has certified that the patient is terminally ill by the words ''11159.2 exemption.''

(c) A pharmacist may fill a prescription pursuant to this section when there is a technical error in the certification required by paragraph (3) of subdivision (b), provided that he or she has personal knowledge of the patient's terminal illness, and subsequently returns the prescription to the prescriber for correction within 72 hours.

(d) For purposes of this section, ''terminally ill'' means a patient who meets all of the following conditions:

(1) In the reasonable medical judgment of the prescribing physician, the patient has been determined to be suffering from an illness that is incurable and irreversible.

(2) In the reasonable medical judgment of the prescribing physician, the patient's illness will, if the illness takes its normal course, bring about the death of the patient within a period of one year.

(3) The patient's treatment by the physician prescribing a Schedule II controlled substance pursuant to this section primarily is for the control of pain, symptom management, or both, rather than for cure of the illness.

(e) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.

SEC. 3.5. Section 11159.2 is added to the Health and Safety Code, to read:

11159.2. (a) Notwithstanding any other provision of law, a prescription for a Schedule II controlled substance for use by a patient who has a terminal illness shall meet the following requirements:

(1) Contain the information specified in subdivision (a) of Section 11164.

(2) Indicate that the prescriber has certified that the patient is terminally ill by the words ''11159.2 exemption.''

(b) A pharmacist may fill a prescription pursuant to this section when there is a technical error in the certification required by paragraph (2) of subdivision (a), provided that he or she has personal knowledge of the patient's terminal illness, and subsequently returns the prescription to the prescriber for correction within 72 hours.

(c) For purposes of this section, ''terminally ill'' means a patient who meets all of the following conditions:

(1) In the reasonable medical judgment of the prescribing physician, the patient has been determined to be suffering from an illness that is incurable and irreversible.

(2) In the reasonable medical judgment of the prescribing physician, the patient's illness will, if the illness takes its normal course, bring about the death of the patient within a period of one year.

(3) The patient's treatment by the physician prescribing a Schedule II controlled substance pursuant to this section primarily is for the control of pain, symptom management, or both, rather than for cure of the illness.

(d) This section shall become operative on July 1, 2004.

SEC. 4. Section 11161 of the Health and Safety Code is amended to read:

11161. (a) Prescription blanks shall be issued by the Department of Justice in serially numbered groups of not more than 100 forms each in triplicate unless a practitioner orally, electronically, or in writing requests a larger amount, and shall be furnished to any practitioner authorized to write a prescription for controlled substances classified in Schedule II. The Department of Justice may charge a fee for the prescription blanks sufficient to reimburse the department for the actual costs associated with the preparation, processing, and filing of any forms issued pursuant to this section. The prescription blanks shall not be transferable. Any person possessing a triplicate prescription blank otherwise than as provided in this section is guilty of a misdemeanor.

(b) When a practitioner is named in a warrant of arrest or is charged in an accusatory pleading with a felony violation of Section 11153, 11154, 11156, 11157, 11170, 11173, 11350, 11351, 11352, 11353, 11353.5, 11377, 11378, 11378.5, 11379, 11379.5, or 11379.6, the court in which the accusatory pleading is filed or the magistrate who issued the warrant of arrest shall, upon the motion of a law enforcement agency which is supported by reasonable cause, issue an order which requires the practitioner to surrender to the clerk of the court all triplicate prescription blanks in the practitioner's possession at a time set in the order and shall direct the Department of Justice to withhold prescription blanks from the practitioner. The law enforcement agency obtaining the order shall notify the Department of Justice of this order. Except as provided in subdivisions (c) and (f) of this section, the order shall remain in effect until further order of the court. Any practitioner possessing prescription blanks in violation of the order is guilty of a misdemeanor.

(c) The order provided by subdivision (b) shall be vacated if the court or magistrate finds that the underlying violation or violations are not supported by reasonable cause at a hearing held within two court days after the practitioner files and personally serves upon the prosecuting

attorney and the law enforcement agency that obtained the order, a notice of motion to vacate the order with any affidavits on which the practitioner relies. At the hearing, the burden of proof, by a preponderance of the evidence, is on the prosecution. Evidence presented at the hearing shall be limited to the warrant of arrest with supporting affidavits, the motion to require the defendant to surrender all triplicate prescription blanks with supporting affidavits, the sworn complaint together with any documents or reports incorporated by reference thereto which, if based on information and belief, state the basis for the information, or any other documents of similar reliability as well as affidavits and counter affidavits submitted by the prosecution and defense. Granting of the motion to vacate the order is no bar to prosecution of the alleged violation or violations.

(d) The defendant may elect to challenge the order issued under subdivision (b) at the preliminary examination. At that hearing, the evidence shall be limited to that set forth in subdivision (c) and any other evidence otherwise admissible at the preliminary examination.

(e) If the practitioner has not moved to vacate the order issued under subdivision (b) by the time of the preliminary examination and he or she is held to answer on the underlying violation or violations, the practitioner shall be precluded from afterwards moving to vacate the order. If the defendant is not held to answer on the underlying charge or charges at the conclusion of the preliminary examination, the order issued under subdivision (b) shall be vacated.

(f) Notwithstanding subdivision (e), any practitioner who is diverted pursuant to Chapter 2.5 (commencing with Section 1000) of Title 7 of Part 2 of the Penal Code may file a motion to vacate the order issued under subdivision (b).

(g) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.

SEC. 5. Section 11161 is added to the Health and Safety Code, to read:

11161. (a) When a practitioner is named in a warrant of arrest or is charged in an accusatory pleading with a felony violation of Section 11153, 11154, 11156, 11157, 11170, 11173, 11350, 11351, 11352, 11353, 11353.5, 11377, 11378, 11378.5, 11379, 11379.5, or 11379.6, the court in which the accusatory pleading is filed or the magistrate who issued the warrant of arrest shall, upon the motion of a law enforcement agency which is supported by reasonable cause, issue an order which requires the practitioner to surrender to the clerk of the court all triplicate prescription blanks or controlled substance prescription forms in the practitioner's possession at a time set in the order. Except as provided in subdivisions (b) and (e) of this section, the order shall remain in effect

until further order of the court. Any practitioner possessing prescription blanks in violation of the order is guilty of a misdemeanor.

(b) The order provided by subdivision (a) shall be vacated if the court or magistrate finds that the underlying violation or violations are not supported by reasonable cause at a hearing held within two court days after the practitioner files and personally serves upon the prosecuting attorney and the law enforcement agency that obtained the order, a notice of motion to vacate the order with any affidavits on which the practitioner relies. At the hearing, the burden of proof, by a preponderance of the evidence, is on the prosecution. Evidence presented at the hearing shall be limited to the warrant of arrest with supporting affidavits, the motion to require the defendant to surrender all triplicate prescription blanks or controlled substance prescription forms with supporting affidavits, the sworn complaint together with any documents or reports incorporated by reference thereto which, if based on information and belief, state the basis for the information, or any other documents of similar reliability as well as affidavits and counter affidavits submitted by the prosecution and defense. Granting of the motion to vacate the order is no bar to prosecution of the alleged violation or violations.

(c) The defendant may elect to challenge the order issued under subdivision (a) at the preliminary examination. At that hearing, the evidence shall be limited to that set forth in subdivision (b) and any other evidence otherwise admissible at the preliminary examination.

(d) If the practitioner has not moved to vacate the order issued under subdivision (a) by the time of the preliminary examination and he or she is held to answer on the underlying violation or violations, the practitioner shall be precluded from afterwards moving to vacate the order. If the defendant is not held to answer on the underlying charge or charges at the conclusion of the preliminary examination, the order issued under subdivision (a) shall be vacated.

(e) Notwithstanding subdivision (d), any practitioner who is diverted pursuant to Chapter 2.5 (commencing with Section 1000) of Title 7 of Part 2 of the Penal Code may file a motion to vacate the order issued under subdivision (a).

(f) This section shall become operative on July 1, 2004.

SEC. 6. Section 11161.5 is added to the Health and Safety Code, to read:

11161.5. (a) Prescription forms for controlled substance prescriptions shall be obtained from security printers approved by the Board of Pharmacy.

(b) The Board of Pharmacy may approve security printer applications after the applicant has provided the following information:

(1) Name, address, and telephone number of the applicant.

(2) Policies and procedures of the applicant for verifying the identity of the prescriber ordering controlled substance prescription forms.

(3) Policies and procedures of the applicant for verifying delivery of controlled substance prescription forms to prescribers.

(4) (A) The location, names, and titles of the applicant's agent for service of process in this state; all principal corporate officers, if any; and all managing general partners, if any.

(B) A report containing this information shall be made on an annual basis and within 30 days after any change of office, principal corporate officers, or managing general partner.

(5) (A) A signed statement indicating whether the applicant, principal corporate officers, or managing general partners have ever been convicted of, or pled no contest to, a violation of any law of a foreign country, the United States, or any state, or of any local ordinance.

(B) The applicant shall also provide fingerprints, in a manner specified by the Board of Pharmacy, for the purpose of completing state and federal criminal background checks.

(c) Prior to approving a security printer application, the Board of Pharmacy shall submit a copy of the application to the Department of Justice; the Department of Justice may, within 30 calendar days of receipt of the application from the Board of Pharmacy, deny the security printer application.

(d) The Board of Pharmacy or the Department of Justice may deny a security printer application on any of the following grounds:

(1) The applicant has been convicted of a crime. A conviction within the meaning of this paragraph means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) The applicant committed any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, herself, or another, or substantially injure another.

(3) The applicant committed any act that would constitute a violation of this division.

(4) The applicant knowingly made a false statement of fact required to be revealed in the application to produce controlled substance prescription forms.

(5) The Board of Pharmacy or Department of Justice determines that the applicant failed to demonstrate adequate security procedures relating to the production and distribution of controlled substance prescription forms.

(6) The Board of Pharmacy or Department of Justice determines that the applicant has submitted an incomplete application.

(e) The Board of Pharmacy shall maintain a list of approved security printers and the Board of Pharmacy shall make this information available to prescribers and other appropriate government agencies, including the Department of Justice.

(f) Before printing any controlled substance prescription forms, a security printer shall verify with the appropriate licensing board that the prescriber possesses a license and current prescribing privileges which permits the prescribing of controlled substances.

(g) Controlled substance prescription forms shall be provided directly to the prescriber either in person, by certified mail, or by a means that requires a signature signifying receipt of the package and provision of that signature to the security printer.

(h) Security printers shall retain ordering and delivery records in a readily retrievable manner for individual prescribers for three years.

(i) Security printers shall produce ordering and delivery records upon request by an authorized officer of the law as defined in Section 4017 of the Business and Professions Code.

(j) (1) The Board of Pharmacy or the Department of Justice may revoke its approval of a security printer for a violation of this division or action that would permit a denial pursuant to subdivision (d) of this section.

(2) When the Board of Pharmacy or the Department of Justice revokes its approval, it shall notify the appropriate licensing boards and remove the security printer from the list of approved security printers.

(k) Security printer applicants may appeal a denial or revocation by the Board of Pharmacy to the full board in a public meeting of the Board of Pharmacy.

SEC. 7. Section 11161.7 is added to the Health and Safety Code, to read:

11161.7. (a) When a prescriber's authority to prescribe controlled substances is restricted by civil, criminal, or administrative action, or by an order of the court issued pursuant to Section 11161, the law enforcement agency or licensing board that sought the restrictions shall provide the name, category of licensure, license number, and the nature of the restrictions imposed on the prescriber to security printers, the Department of Justice, and the Board of Pharmacy.

(b) The Board of Pharmacy shall make available the information required by subdivision (a) to pharmacies and security printers to prevent the dispensing of controlled substance prescriptions issued by the prescriber and the ordering of additional controlled substance prescription forms by the restricted prescriber.

SEC. 8. Section 11162 of the Health and Safety Code is amended to read:

11162. (a) The prescription blanks shall be printed on distinctive paper, the serial number of the group being shown on each form, and each form being serially numbered. The prescription blanks shall bear the preprinted name, address, and category of professional licensure of the practitioner to whom they are issued, and the federal registry number for controlled substances.

(b) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.

SEC. 9. Section 11162.1 is added to the Health and Safety Code, to read:

11162.1. (a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive ''void'' pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word ''void'' shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words ''California Security Prescription.''

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermo-chromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form and the following quantities shall appear:

1-24
25-49
50-74
75-100
101-150
151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall either (A) contain a statement printed on the bottom of the prescription blank that the ''Prescription is void if more than one controlled substance prescription is written per blank'' or (B) contain a space for the prescriber to specify the number of drugs prescribed on the prescription and a statement printed on the bottom of the prescription blank that the ''Prescription is void if the number of drugs prescribed is not noted.''

(9) The preprinted name, category of licensure, license number, and federal controlled substance registration number of the prescribing practitioner.

(10) A check box indicating the prescriber's order not to substitute.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

(c) (1) A prescriber designated by a licensed health care facility may order controlled substance prescription forms for use by prescribers when treating patients in that facility without the information required in paragraph (9) of subdivision (a).

(2) Forms ordered pursuant to this subdivision shall have the name, category of licensure, license number, and federal controlled substance registration number of the designated prescriber and the name, address, category of licensure, and license number of the licensed health care facility preprinted on the form.

(3) Forms ordered pursuant to this section shall not be valid prescriptions without the name, category of licensure, license number, and federal controlled substance registration number of the prescriber on the form.

(4) (A) The designated prescriber shall maintain a record of the prescribers to whom controlled substance prescription forms are issued.

(B) The record shall include the name, category of licensure, license number, federal controlled substance registration number, and the quantity of controlled substance prescription forms issued to each prescriber; the record shall be maintained in the health facility for three years.

(d) This section shall become operative on July 1, 2004.

SEC. 10. Section 11162.6 is added to the Health and Safety Code, to read:

11162.6. (a) Every person who counterfeits a controlled substance prescription form shall be guilty of a misdemeanor punishable by imprisonment in a county jail for not more than one year, by a fine not

exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(b) Every person who knowingly possesses a counterfeited controlled substance prescription form shall be guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(c) Every person who attempts to obtain or obtains a controlled substance prescription form under false pretenses shall be guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(d) Every person who fraudulently produces controlled substance prescription forms shall be guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(e) This section shall become operative on July 1, 2004.

SEC. 11. Section 11164 of the Health and Safety Code is amended to read:

11164. Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance unless it complies with the requirements of this section.

(a) The signature on each prescription for a controlled substance classified in Schedule II shall be wholly written in ink in the handwriting of the prescriber upon the official prescription form issued by the Department of Justice. Each prescription shall be prepared in triplicate, signed by the prescriber, and shall contain, either typewritten or handwritten by the prescriber or his or her employee, the date, name, and address of the person for whom the controlled substance is prescribed, the name, quantity, and strength of the controlled substance prescribed, directions for use, and the address, category of professional licensure, and the federal controlled substance registration number of the prescriber. The original and duplicate of the prescription shall be delivered to the pharmacist filling the prescription. The duplicate shall be retained by the pharmacist and the original, properly endorsed by the pharmacist with the name and address of the pharmacy, the pharmacy's state license number, the date the prescription was filled and the signature of the pharmacist, shall be transmitted to the Department of Justice at the end of the month in which the prescription was filled. Upon receipt of an incompletely prepared official prescription form of the Department of Justice, the pharmacist may enter on the face of the

prescription the address of the patient. A pharmacist may fill a prescription for a controlled substance classified in Schedule II containing an error or errors, if the pharmacist notifies the prescriber of the error or errors and the prescriber approves any correction. The prescriber shall fax or mail a corrected prescription to the pharmacist within seven days of the prescription being dispensed.

(b) Each prescription for a controlled substance classified in Schedule III, IV, or V, except as authorized by subdivision (c), shall be subject to the following requirements:

(1) The prescription shall be signed and dated by the prescriber and shall contain the name of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, and directions for use. With respect to prescriptions for controlled substances classified in Schedules III and IV, the signature and date shall be wholly written in ink in the handwriting of the prescriber.

(2) In addition, the prescription shall contain the name, address, telephone number, category of professional licensure, and federal controlled substance registration number of the prescriber. The information required by this paragraph shall be either preprinted upon the prescription blank, typewritten, rubber stamped, or printed by hand. Notwithstanding any provision in this section, the prescriber's address, telephone number, category of professional licensure, or federal controlled substances registration number need not appear on the prescription if that information is readily retrievable in the pharmacy.

(3) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(c) Any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be reduced to writing by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. The date of issue of the prescription and all the information required for a written prescription by subdivision (b) shall be included in the written record of the prescription. The pharmacist need not reduce to writing the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient if that information is readily retrievable in the pharmacy. Pursuant to authorization of the prescriber, any employee of the prescriber on behalf of the prescriber may orally or

electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the employee of the prescriber transmitting the prescription.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Notwithstanding any provision of subdivisions (b) and (c), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

(f) In addition to the prescriber's record required by Section 11190, any practitioner dispensing a controlled substance classified in Schedule II in accordance with subdivision (b) of Section 11158 shall prepare a written record thereof on the official forms issued by the Department of Justice, pursuant to Section 11161, and shall transmit the original to the Department of Justice in accordance with any rules that the department may adopt for completion and transmittal of the forms.

(g) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.

SEC. 12. Section 11164 is added to the Health and Safety Code, to read:

11164. Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance unless it complies with the requirements of this section.

(a) (1) The signature on each prescription for a controlled substance classified in Schedule II shall be wholly written in ink in the handwriting of the prescriber upon the official prescription form issued by the Department of Justice or on a controlled substance prescription form that meets the requirements of Section 11162.1.

(2) Each prescription shall be signed by the prescriber and shall contain, either typewritten or handwritten by the prescriber or his or her agent, the date, name, and address of the person for whom the controlled substance is prescribed; the name, quantity, strength, and directions for use of the controlled substance prescribed; and the address, category of professional licensure, and federal controlled substance registration number of the prescriber.

(3) If the prescriber uses an official prescription form issued by the Department of Justice, the original and duplicate of the prescription shall be delivered to the pharmacist filling the prescription; the duplicate shall be retained by the pharmacist and the original, properly endorsed by the pharmacist with the name and address of the pharmacy, the pharmacy's state license number, the date the prescription was filled, and the

signature of the pharmacist, shall be transmitted to the Department of Justice at the end of the month in which the prescription was filled.

(4) Upon receipt of an incompletely prepared official prescription form of the Department of Justice, the pharmacist may enter on the face of the prescription the address of the patient.

(5) A pharmacist may fill a prescription for a controlled substance classified in Schedule II containing an error or errors, if the pharmacist notifies the prescriber of the error or errors and the prescriber approves any correction; the prescriber shall fax or mail a corrected prescription to the pharmacist within seven days of the prescription being dispensed.

(b) Each prescription for a controlled substance classified in Schedule III, IV, or V, except as authorized by subdivision (c), shall be subject to the following requirements:

(1) The prescription shall be signed and dated by the prescriber and shall contain the name of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, and directions for use. With respect to prescriptions for controlled substances classified in Schedules III and IV, the signature and date shall be written in ink in the handwriting of the prescriber.

(2) (A) In addition, the prescription shall contain the name, address, telephone number, category of professional licensure, and federal controlled substance registration number of the prescriber.

(B) The information required by this paragraph shall be either preprinted upon the prescription blank, typewritten, rubber stamped, or printed by hand.

(C) Notwithstanding any other provision in this section, the prescriber's address, telephone number, category of professional licensure, and federal controlled substances registration number need not appear on the prescription if that information is readily retrievable in the pharmacy.

(3) The prescription shall also contain the address of the person for whom the controlled substance is prescribed; if the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an agent acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(c) (1) Any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code.

(2) The date of issue of the prescription and all the information required for a written prescription by subdivision (b) shall be included

in the written record of the prescription; the pharmacist need not include the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient, if that information is readily retrievable in the pharmacy.

(3) Pursuant to an authorization of the prescriber, any agent of the prescriber on behalf of the prescriber may orally or electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the hard copy record of the prescription required by this subdivision specifies the name of the agent of the prescriber transmitting the prescription.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Notwithstanding subdivisions (b) and (c), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

(f) This section shall become operative on July 1, 2004, and shall remain in effect only until January 1, 2005, and as of that date is repealed.

SEC. 13. Section 11164 is added to the Health and Safety Code, to read:

11164. Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements:

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the person for whom the controlled substance is prescribed; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(b) (1) Any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code.

(2) The date of issue of the prescription and all the information required for a written prescription by subdivision (a) shall be included in the written record of the prescription; the pharmacist need not include the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient on the hard copy, if that information is readily retrievable in the pharmacy.

(3) Pursuant to an authorization of the prescriber, any agent of the prescriber on behalf of the prescriber may orally or electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the agent of the prescriber transmitting the prescription.

(c) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(d) Notwithstanding any provision of subdivisions (a) and (b), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

(e) This section shall become operative on January 1, 2005.

SEC. 14. Section 11164.1 is added to the Health and Safety Code, to read:

11164.1. (a) (1) Notwithstanding any other provision of law, a prescription for a controlled substance issued by a prescriber in another state for delivery to a patient in another state may be dispensed by a California pharmacy, if the prescription conforms with the requirements for controlled substance prescriptions in the state in which the controlled substance was prescribed.

(2) All prescriptions for Schedule II controlled substances dispensed pursuant to this subdivision shall be reported by the dispensing pharmacy to the Department of Justice in the manner prescribed by subdivision (d) of Section 11165.

(b) Pharmacies may dispense prescriptions for Schedule III, Schedule IV, and Schedule V controlled substances from out-of-state prescribers pursuant to Section 4005 of the Business and Professions Code and Section 1717 of Title 16 of the California Code of Regulations.

(c) This section shall become operative on January 1, 2004, and shall remain in effect only until January 1, 2005, and as of that date is repealed.

SEC. 15. Section 11164.1 is added to the Health and Safety Code, to read:

11164.1. (a) (1) Notwithstanding any other provision of law, a prescription for a controlled substance issued by a prescriber in another state for delivery to a patient in another state may be dispensed by a California pharmacy, if the prescription conforms with the requirements

for controlled substance prescriptions in the state in which the controlled substance was prescribed.

(2) All prescriptions for Schedule II and Schedule III controlled substances dispensed pursuant to this subdivision shall be reported by the dispensing pharmacy to the Department of Justice in the manner prescribed by subdivision (d) of Section 11165.

(b) Pharmacies may dispense prescriptions for Schedule III, Schedule IV, and Schedule V controlled substances from out-of-state prescribers pursuant to Section 4005 of the Business and Professions Code and Section 1717 of Title 16 of the California Code of Regulations.

(c) This section shall become operative on January 1, 2005.

SEC. 16. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II and Schedule III controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, and the Osteopathic Medical Board of California Contingent Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II and Schedule III controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

(b) The reporting of Schedule III controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The Department of Justice may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that

patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II controlled substance, the dispensing pharmacy shall provide the following information to the Department of Justice in a frequency and format specified by the Department of Justice:

(1) Full name, address, gender, and date of birth of the patient.

(2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, and federal controlled substance registration number.

(4) NDC (National Drug Code) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) ICD-9 (diagnosis code), if available.

(7) Date of issue of the prescription.

(8) Date of dispensing of the prescription.

(e) This section shall remain in effect only until January 1, 2005, and as of that date is repealed.

SEC. 16.5. Section 11165 of the Health and Safety Code is amended to read:

11165. (a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II and Schedule III controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, and the Osteopathic Medical Board of California Contingent Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II and Schedule III controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

(b) The reporting of Schedule III controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The Department of Justice may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from

the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II controlled substance, the dispensing pharmacy shall provide the following information to the Department of Justice in a frequency and format specified by the Department of Justice:

(1) Full name, address, gender, and date of birth of the patient.

(2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, and federal controlled substance registration number.

(4) NDC (National Drug Code) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) ICD-9 (diagnosis code), if available.

(7) Date of issue of the prescription.

(8) Date of dispensing of the prescription.

(e) This section shall remain in effect only until January 1, 2005, and as of that date is repealed.

SEC. 17. Section 11165 is added to the Health and Safety Code, to read:

11165. (a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II and Schedule III controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent

upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, and the Osteopathic Medical Board of California Contingent Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II and Schedule III controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

(b) The reporting of Schedule III controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The Department of Justice may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II or Schedule III controlled substance, the dispensing pharmacy shall provide the following information to the Department of Justice in a frequency and format specified by the Department of Justice:

(1) Full name, address, gender, and date of birth of the patient.

(2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, and federal controlled substance registration number.

(4) NDC (National Drug Code) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.
(6) ICD-9 (diagnosis code), if available.
(7) Date of issue of the prescription.
(8) Date of dispensing of the prescription.
(e) This section shall become operative on January 1, 2005.

SEC. 17.5. Section 11165 is added to the Health and Safety Code, to read:

11165. (a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II and Schedule III controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, and the Osteopathic Medical Board of California Contingent Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II and Schedule III controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

(b) The reporting of Schedule III controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The Department of Justice may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II or Schedule III controlled substance, the dispensing pharmacy shall provide the following information to the Department of Justice in a frequency and format specified by the Department of Justice:

(1) Full name, address, gender, and date of birth of the patient.

(2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, and federal controlled substance registration number.

(4) NDC (National Drug Code) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) ICD-9 (diagnosis code), if available.

(7) Date of issue of the prescription.

(8) Date of dispensing of the prescription.

(e) This section shall become operative on January 1, 2005.

SEC. 18. Section 11165.1 of the Health and Safety Code is amended to read:

11165.1. (a) (1) A licensed health care practitioner eligible to prescribe Schedule II or Schedule III controlled substances or a pharmacist may make a written request for, and the Department of Justice may release to that practitioner or pharmacist, the history of controlled substances dispensed to an individual under his or her care based on data contained in CURES.

(2) Any request for, or release of, a controlled substance history pursuant to this section shall be made in accordance with guidelines developed by the Department of Justice.

(b) In order to prevent the inappropriate, improper, or illegal use of Schedule II or Schedule III controlled substances, the Department of Justice may initiate the referral of the history of controlled substances dispensed to an individual based on data contained in CURES to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

(c) The history of controlled substances dispensed to an individual based on data contained in CURES that is received by a practitioner or pharmacist from the Department of Justice pursuant to this section shall be considered medical information subject to the provisions of the Confidentiality of Medical Information Act contained in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

SEC. 19. Section 11166 of the Health and Safety Code is amended to read:

11166. No person shall fill a prescription for a controlled substance after six months has elapsed from the date written on the prescription by the prescriber. No person shall knowingly fill a mutilated or forged or altered prescription for a controlled substance except for the addition of the address of the person for whom the controlled substance is prescribed as provided by paragraph (3) of subdivision (b) of Section 11164.

SEC. 20. Section 11167 of the Health and Safety Code is amended to read:

11167. Notwithstanding subdivision (a) of Section 11164, in an emergency where failure to issue a prescription may result in the loss of life or intense suffering, an order for a Schedule II controlled substance may be dispensed on an oral, written, or electronic data transmission order, subject to all of the following requirements:

(a) The order contains all of the information required by subdivision (a) of Section 11164.

(b) Any written order is signed and dated by the prescriber in indelible pencil or ink, and the pharmacy reduces any oral or electronic data transmission order to writing prior to actually dispensing the controlled substance.

(c) The prescriber provides a triplicate prescription, completed as provided by subdivision (a) of Section 11164, by the seventh day following the transmission of the initial order; a postmark by the seventh day following transmission of the initial order shall constitute compliance.

(d) If the prescriber fails to comply with subdivision (c), the pharmacy shall so notify the Bureau of Narcotic Enforcement in writing within 144 hours of the prescriber's failure to do so and shall make and retain a written, readily retrievable record of the prescription, including the date and method of notification of the Bureau of Narcotic Enforcement.

(e) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.

SEC. 21. Section 11167 is added to the Health and Safety Code, to read:

11167. Notwithstanding subdivision (a) of Section 11164, in an emergency where failure to issue a prescription may result in the loss of life or intense suffering, an order for a Schedule II controlled substance may be dispensed on an oral, written, or electronic data transmission order, subject to all of the following requirements:

(a) The order contains all of the information required by subdivision (a) of Section 11164.

(b) Any written order is signed and dated by the prescriber in ink, and the pharmacy reduces any oral or electronic data transmission order to hard copy form prior to dispensing the controlled substance.

(c) The prescriber provides a written prescription on a triplicate prescription form or a controlled substance prescription form that meets the requirements of Section 11162.1, by the seventh day following the transmission of the initial order; a postmark by the seventh day following transmission of the initial order shall constitute compliance.

(d) If the prescriber fails to comply with subdivision (c), the pharmacy shall so notify the Bureau of Narcotic Enforcement in writing within 144 hours of the prescriber's failure to do so and shall make and retain a hard copy, readily retrievable record of the prescription, including the date and method of notification of the Bureau of Narcotic Enforcement.

(e) This section shall become operative on July 1, 2004, and shall remain in effect until January 1, 2005, at which time it is repealed.

SEC. 22. Section 11167 is added to the Health and Safety Code, to read:

11167. Notwithstanding subdivision (a) of Section 11164, in an emergency where failure to issue a prescription may result in loss of life or intense suffering, an order for a controlled substance may be dispensed on an oral order, an electronic data transmission order, or a written order not made on a controlled substance form as specified in Section 11162.1, subject to all of the following requirements:

(a) The order contains all information required by subdivision (a) of Section 11164.

(b) Any written order is signed and dated by the prescriber in ink, and the pharmacy reduces any oral or electronic data transmission order to hard copy form prior to dispensing the controlled substance.

(c) The prescriber provides a written prescription on a controlled substance prescription form that meets the requirements of Section 11162.1, by the seventh day following the transmission of the initial order; a postmark by the seventh day following transmission of the initial order shall constitute compliance.

(d) If the prescriber fails to comply with subdivision (c), the pharmacy shall so notify the Bureau of Narcotic Enforcement in writing within 144 hours of the prescriber's failure to do so and shall make and retain a hard copy, readily retrievable record of the prescription, including the date and method of notification of the Bureau of Narcotic Enforcement.

(e) This section shall become operative on January 1, 2005.

SEC. 23. Section 11167.5 of the Health and Safety Code is amended to read:

11167.5. (a) An order for a controlled substance classified in Schedule II in a licensed skilled nursing facility, an intermediate care facility, or a licensed home health agency providing hospice care may be dispensed upon an oral or electronically transmitted prescription. Prior to filling the prescription, the pharmacist shall reduce it to writing in ink or indelible pencil in the handwriting of the pharmacist upon an official prescription form issued by the Department of Justice for that purpose. The prescriptions shall be prepared in triplicate and shall contain the date the prescription was orally or electronically transmitted by the prescriber, the name of the person for whom the prescription was authorized, the name and address of the licensed facility or home health agency providing hospice care in which that person is a patient, the name and quantity of the controlled substance prescribed, the directions for use, and the name, address, category of professional licensure, and federal controlled substance registration number of the prescriber. The duplicate shall be retained by the pharmacist, and the triplicate shall be forwarded to the prescriber by the end of the month in which the prescription was issued. The original shall be properly endorsed by the pharmacist with the pharmacy's state license number, the signature of the pharmacist, the name and address of the pharmacy, and the signature of the person who received the controlled substance for the licensed facility or home health agency providing hospice care and shall be forwarded by the pharmacist to the Department of Justice at the end of the month in which the prescription was filled. A skilled nursing facility, intermediate care facility, or licensed home health agency providing hospice care shall forward to the dispensing pharmacist a copy of any signed telephone order, chart order, or related documentation substantiating each oral or electronically transmitted prescription transaction under this section.

(b) For the purposes of this section, ''hospice care'' means interdisciplinary health care which is designed to alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of a terminal disease and to provide supportive care for the primary care person and the family of the patient under hospice care.

(c) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.

SEC. 24. Section 11167.5 is added to the Health and Safety Code, to read:

11167.5. (a) An order for a controlled substance classified in Schedule II for a patient of a licensed skilled nursing facility, a licensed intermediate care facility, a licensed home health agency, or a licensed hospice may be dispensed upon an oral or electronically transmitted

prescription. If the prescription is transmitted orally, the pharmacist shall, prior to filling the prescription, reduce the prescription to writing in ink in the handwriting of the pharmacist on a form developed by the pharmacy for this purpose. If the prescription is transmitted electronically, the pharmacist shall, prior to filling the prescription, produce, sign, and date a hard copy prescription. The prescriptions shall contain the date the prescription was orally or electronically transmitted by the prescriber, the name of the person for whom the prescription was authorized, the name and address of the licensed skilled nursing facility, licensed intermediate care facility, licensed home health agency, or licensed hospice in which that person is a patient, the name and quantity of the controlled substance prescribed, the directions for use, and the name, address, category of professional licensure, license number, and federal controlled substance registration number of the prescriber. The original shall be properly endorsed by the pharmacist with the pharmacy's state license number, the name and address of the pharmacy, and the signature of the person who received the controlled substances for the licensed skilled nursing facility, licensed intermediate care facility, licensed home health agency, or licensed hospice. A licensed skilled nursing facility, a licensed intermediate care facility, a licensed home health agency, or a licensed hospice shall forward to the dispensing pharmacist a copy of any signed telephone orders, chart orders, or related documentation substantiating each oral or electronically transmitted prescription transaction under this section.

(b) This section shall become operative on July 1, 2004.

SEC. 25. Section 11168 of the Health and Safety Code is amended to read:

11168. (a) The prescription book containing the prescriber's copies of prescriptions issued shall be retained by the prescriber which shall be preserved for three years.

(b) This section shall remain in effect only until January 1, 2008, and as of that date is repealed.

SEC. 26. Section 11169 of the Health and Safety Code is amended to read:

11169. (a) When codeine, or dihydrocodeinone or tincture opii camphorata (paregoric) is not combined with other medicinal ingredients, it shall be prescribed on the official triplicate blanks.

(b) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.

SEC. 27. Section 11190 of the Health and Safety Code is amended to read:

11190. Every practitioner, other than a pharmacist, who issues a prescription, or dispenses or administers a controlled substance

classified in Schedule II shall make a record that, as to the transaction, shows all of the following:

(a) The name and address of the patient.

(b) The date.

(c) The character, including the name and strength, and quantity of controlled substances involved.

The prescriber's record shall show the pathology and purpose for which the prescription is issued, or the controlled substance administered, prescribed, or dispensed.

This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed.

SEC. 28. Section 11190 is added to the Health and Safety Code, to read:

11190. (a) Every practitioner, other than a pharmacist, who prescribes or administers a controlled substance classified in Schedule II shall make a record that, as to the transaction, shows all of the following:

(1) The name and address of the patient.

(2) The date.

(3) The character, including the name and strength, and quantity of controlled substances involved.

(b) The prescriber's record shall show the pathology and purpose for which the controlled substance is administered or prescribed.

(c) (1) For each prescription for a Schedule II controlled substance that is dispensed by a prescriber pursuant to Section 4170 of the Business and Professions Code, the prescriber shall record and maintain the following information:

(A) Full name, address, gender, and date of birth of the patient.

(B) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(C) Pharmacy prescription number, license number, and federal controlled substance registration number.

(D) NDC (National Drug Code) number of the controlled substance dispensed.

(E) Quantity of the controlled substance dispensed.

(F) ICD-9 (diagnosis code), if available.

(G) Date of dispensing of the prescription.

(2) Each prescriber that dispenses controlled substances shall provide the Department of Justice the information required by this subdivision on a monthly basis in either hard copy or electronic form.

(d) This section shall become operative on July 1, 2004, and shall remain in effect only until January 1, 2005, and as of that date is repealed.

SEC. 29. Section 11190 is added to the Health and Safety Code, to read:

11190. (a) Every practitioner, other than a pharmacist, who prescribes or administers a controlled substance classified in Schedule II shall make a record that, as to the transaction, shows all of the following:

(1) The name and address of the patient.

(2) The date.

(3) The character, including the name and strength, and quantity of controlled substances involved.

(b) The prescriber's record shall show the pathology and purpose for which the controlled substance was administered or prescribed.

(c) (1) For each prescription for a Schedule II or Schedule III controlled substance that is dispensed by a prescriber pursuant to Section 4170 of the Business and Professions Code, the prescriber shall record and maintain the following information:

(A) Full name, address, gender, and date of birth of the patient.

(B) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(C) Pharmacy prescription number, license number, and federal controlled substance registration number.

(D) NDC (National Drug Code) number of the controlled substance dispensed.

(E) Quantity of the controlled substance dispensed.

(F) ICD-9 (diagnosis code), if available.

(G) Date of dispensing of the prescription.

(2) Each prescriber that dispenses controlled substances shall provide the Department of Justice the information required by this subdivision on a monthly basis in either hard copy or electronic form.

(d) This section shall become operative on January 1, 2005.

SEC. 30. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 31. Sections 16.5 and 17.5 of this bill incorporate changes to Section 11165 of the Health and Safety Code proposed by both this bill and AB 1196. They shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) each bill amends or makes other changes to Section 11165 of the Health and Safety Code, and (3) this bill is enacted after AB 1196, in which case Sections 16 and 17 of this bill shall not become operative.

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